

Falls Church, Virginia 22041

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File: D2004-014

Date: OCT 15 2004

In re: GAYLE S. GHITELMAN, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Esquire

ON BEHALF OF DHS: Eileen M. Connolly, Appellate Counsel

ORDER:

PER CURIAM. On December 11, 2003, the Supreme Judicial Court for Suffolk County, Commonwealth of Massachusetts, ordered that the respondent be temporarily suspended from the practice of law, pending further order of the court. On May 19, 2004, the court suspended her for a year and a day, retroactive to December 11, 2003.

Consequently, on February 20, 2004, the Office of General Counsel for the Executive Office for Immigration Review initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On February 25, 2004, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) asked that the respondent be similarly suspended from practice before that agency. Therefore, on March 9, 2004, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. A Notice of Intent to Discipline was served on the respondent on July 19, 2004.

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline. See 8 C.F.R. § 1003.105(c)(1). On August 20, 2004, the respondent filed a "Motion to Extend Time To Answer". The motion stated that the respondent had been unable to retain counsel to advise her. On September 1, 2004, we granted an extension of 30 days for the respondent to file an answer. We cautioned that a failure to file an answer within the time period would constitute an admission of the allegations in the Notice of Intent to Discipline.

The respondent's failure to file a response within the time period prescribed in the Notice, as extended, constitutes an admission of the allegations therein, and the respondent is now precluded from requesting a hearing on the matter. 8 C.F.R. § 1003.105(d)(1), (2).

The Notice recommends that the respondent be suspended from practicing before the Board and the Immigration Courts, for a period of 1 year and 1 day. The DHS asks that we extend that discipline to practice before it as well. Because the respondent has failed to file an answer, the regulations direct us to adopt the recommendation contained in the Notice, unless there are considerations that compel us to digress from that recommendation. 8 C.F.R. § 1003.105(d)(2). The

recommendation is appropriate, and we will honor it. Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the DHS for a period of 1 year and 1 day.

The respondent is directed to promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or the DHS that the respondent has been suspended from practicing before these bodies. The respondent shall maintain records to evidence compliance with this order. Moreover, we direct that the contents of this notice be made available to the public, including at Immigration Courts and appropriate offices of the DHS. The respondent is also instructed to notify the Board of any further disciplinary action against her.

After the suspension period expires, the respondent may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS. *See* 8 C.F.R. § 1003.107(a). In order to be reinstated, the respondent must demonstrate that she meets the definition of an attorney or representative, as set forth in 8 C.F.R. § 1001.1(f) and (j). *Id.* Therefore, the respondent must show that she has been reinstated to practice law in Massachusetts before she may be reinstated by the Board. *See* 8 C.F.R. § 1001.1(f) (stating that term "attorney" does not include any individual under order suspending him from the practice of law).

  
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FOR THE BOARD